

Remarks of
U.S. Representative Edward J. Markey (D-MA)
Ranking Democrat, House Subcommittee on
Telecommunications, Trade, and Consumer Protection
Hearing on Electronic Commerce
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Good Morning. I am pleased to join Telecommunications Subcommittee Chairman Billy Tauzin (R-LA) in introducing this bill today. The legislation we are proposing today will help to promote competition to our nation's cable monopolies and will help to provide consumer protection.

The legislation will promote greater competition to cable monopolies in a couple of important ways. First, the bill will expand program access rules to reflect the highly-concentrated nature of the current cable programming market and enable competitors to obtain the programming they need to compete effectively. Program access is a key provision that is the lifeblood of many of cable's fledgling competitors. The program access provisions are expanded to include all cable programming, not only programming that is from vertically-integrated programmers and delivered via satellite. Exclusive programming arrangements for incumbent operators may be permitted, but only by obtaining a public interest waiver from the FCC for such channels as locally-produced and locally-originated cable news channels, for example.

Second, the bill will establish a low-cost basic tier so that Direct Broadcast Satellite (DBS) consumers - or potential DBS customers -- who today cannot receive local TV channels as part of a DBS service may obtain a lifeline basic tier over the cable wire. This will permit consumers to obtain their local channels in a way that will affordably complement their satellite service. Both the program access and low cost basic tier provisions will help to promote greater competition to cable monopolies. I also want to note at this point that I look forward to working with Chairman Tauzin on legislation that will allow satellite competitors to broadcast local TV stations back into local markets via satellite. Hopefully Congress can address that issue as well in the near future.

With respect to consumer price protections, the bill seeks to protect consumers by permitting local franchising authorities to certify that an incumbent cable monopoly is not offering consumers an acceptable range of choices and thereby retain FCC consumer price protections for an additional year. This does not mean that the bill is mandating a la carte cable offerings, but rather it means that we'd like to see a greater range of cable programming packages, or "mini-tiers," that cater to particular programming interests of consumers.

This approach also attempts to deal in part with the faulty premise of the FCC's so-called "going forward" rules, which went into effect in 1995 and reversed the good job the Commission had been doing up until that point and which had saved consumers approximately \$3 Billion. The premise of the Commission's rule change was that the cable monopolies needed an incentive to launch new cable programming channels. The new rules allowed for programming costs to be passed on to consumers, plus operators were allowed to charge an extra 20 cents per subscriber per month on top of that for each of up to 6 new channels. Cable operators responded by adding more channels and today claim the high cost of providing those channels as part of the rationale for why cable prices are increasing so drastically.

One obvious result of the FCC's adjustments to its rate rules is that too many cable consumers are paying excessive monopoly rents to cable operators who blissfully allow their programming units to let costs rise because the cable operator is allowed under the Commission's rules to simply pass these costs along to cable subscribers. No need to ask advertisers to shoulder part of the burden - all of it can go on the cable bills of many working Americans or those on fixed incomes. (Most American companies see their stock prices rise when they are able to announce that they are effectively controlling their costs. Cable companies gleefully see their stocks rise as they fail utterly to hold the line on their programming costs.)

Yet this failure to control programming costs also means that incumbent vertically-integrated programmers can not only pass these inflated costs on to their customers, but also means that the costs borne by new entrants competing against them get inflated as well. These higher programming rates unnaturally inflate the costs of competitors attempting to take on the entrenched cable club. This is clearly anti-competitive.

In addition, the FCC's "going forward" rules also wound up forcing many consumers to pay more for programming that they have little to no interest of ever watching. The grievance of paying for unwanted programming on a 35-channel cable system is exacerbated when we move to a 60 or 80 or 100 channel universe. A more robust marketplace would help ensure that consumers would not have to pay for all of these unwanted channels and would more adequately reflect the programming demands and desires of different cable consumers.

But we do not have anything remotely close to a competitive cable marketplace today. And the current marketplace is so overwhelmingly concentrated in the hands of monopolies that the cable club has little interest in catering to consumer choice.

That's why we are here today. Chairman Tauzin and I have lived this cable odyssey together for many, many years. We are familiar with the industry - both its promise and its problems. And we are familiar with all of their tired arguments as to why rates keep going up and up even as inflation stays at near record lows. Chairman Tauzin has been driven in his pursuit of promoting cable competition and so have I. We stood together in 1992. We worked together - against the leadership of both parties - to pass his program access amendment in 1992. And we stand together today because more work needs to be done to inject competition into the cable marketplace and to protect consumers from monopoly power.

The legislation that Chairman Tauzin and I are proposing today will help address these problems. It says that cable systems are deregulated on March 31, 1999 unless a local franchising authority certifies that the incumbent cable company does not offer an acceptable level of choices in the programming offered to consumers. This means that local franchising authorities can help ensure that consumers get additional, smaller programming packages and do not have to take all of the unwanted programming.

Right now, cable rates are rising multiple times the rate of inflation. The massive assault on cable markets that we had expected from the phone companies has not materialized and, except in a few scattered communities across the country, the phone industry has largely pulled back from plans to enter the market in a big way. And we have this deregulation date looming in March of next year. I want to applaud Chairman Tauzin for the leadership he is demonstrating in taking on this vitally important issue for consumers, for the economy and for innovation. And I am happy to be an original cosponsor of this proposal.

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